

**A. 28**

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1 HIGHLY CONFIDENTIAL - J. VARLEY  
2 UNITED STATES BANKRUPTCY COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 In Re:

6 Chapter 11  
7 LEHMAN BROTHERS Case No. 08-13555 (JMP)  
8 HOLDINGS, INC., et al., (Jointly Administered)  
9

10 Debtors.  
11  
12 -----x  
13 \* \* \*HIGHLY CONFIDENTIAL\* \* \*  
14 CONTINUED DEPOSITION OF JOHN VARLEY (TELEPHONIC)  
15 New York, New York  
16 September 11, 2009  
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19  
20  
21  
22  
23 Reported by:  
24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR  
25 JOB NO. 24300

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1	HIGHLY CONFIDENTIAL - J. VARLEY	HIGHLY CONFIDENTIAL - J. VARLEY
2	September 11, 2009	
3	9:05 a.m.	
4		
5	CONTINUED HIGHLY CONFIDENTIAL	A P P E A R A N C E S:
6	deposition of JOHN VARLEY, held at	JONES DAY, LLP
7	Jones Day, LLP, 222 East 41st Street,	Attorneys for Lehman Brothers, Inc.
8	New York, New York, before Kathy S.	222 East 41st Street
9	Klepfer, a Registered Professional	New York, New York 10017-6702
10	Reporter, Registered Merit Reporter,	BY: JAYANT W. TAMBE, ESQ.
11	Certified Realtime Reporter, Certified	BART GREEN, ESQ.
12	LiveNote Reporter, and Notary Public	
13	of the State of New York.	
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1	HIGHLY CONFIDENTIAL - J. VARLEY	HIGHLY CONFIDENTIAL - J. VARLEY
2	A P P E A R A N C E S: (Cont'd.)	
3	HUGHES, HUBBARD & REED, LLP	
4	Attorneys for the SIPA Trustee	
5	1775 I Street, N.W.	
6	Washington, D.C. 20006-2401	
7	BY: JOHN WOOD, ESQ.	
8		
9		
10	Also Present:	
11	PHILIP E. KRUSE, Alvarez & Marsal	
12	DEBORAH COOPER, Barclays (Via Telephone)	
13	PAUL LOFTUS, Barclays (Via telephone)	
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PAGES 128-151 REDACTED

<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>Page 152</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>Q. Looking at this page, page 340, it has</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>Page 153</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>HIGHLY CONFIDENTIAL - J. VARLEY</p> <p>the date of 16th of September. The value of the long assets is, if you see the first straight line, 72.4, do you see that?</p> <p>A. I do.</p> <p>Q. Is it your understanding that this is a document that relates to the Lehman 2 transaction?</p> <p>A. I would speculate that it does because it's got the broadly 70-billion type number in the middle of the range, the 70-billion type number that was true of Lehman 2, yes.</p> <p>Q. Right below the 72.4 number, there's a notation that reads, "Less: Negotiated discount, minus 5." Do you see that?</p> <p>A. I do.</p> <p>Q. What is that?</p> <p>A. I don't know the precise answer to that question, but if I go back to my earlier answer in relation, actually, to Lehman's 3, but relevant to Lehman's 2, I was preoccupied -- we were as a team preoccupied to ensure that we accommodated the unprecedented volatility in the market at that time by ensuring that there was a discount, which I referred to earlier as either</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p>1                   HIGHLY CONFIDENTIAL - J. VARLEY 2 haircut or buffer or delta, a discount to the 3 asset price paid by us for the Lehman's 4 transaction, and that number in other documents 5 that we have looked at together during these 6 depositions has looked at -- it's sometimes been 7 3, it's sometimes been 4. 8                   Here I speculate it's 5, but I think 9 that's what it is that we're referring to. And 10 I surmise that, but I would say that the reason 11 why it's there is because the balance sheet that 12 we were looking at was a balance sheet that had 13 been valued on Friday before the Lehman weekend, 14 and by the time that the markets opened on 15 Monday in the United States, the markets in the 16 rest of the world to the east of the United 17 States were falling, and it was for that reason 18 that we had sought to ensure that there was that 19 delta that I referred to. And I think that's 20 probably what the "negotiated discount 5" refers 21 to. 22                   Q. And the reference negotiated is a 23 reference to negotiated between Lehman and 24 Barclays; is that right? 25                   A. Well, I have to say I don't know, but</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1                   HIGHLY CONFIDENTIAL - J. VARLEY 2 if you ask me to guess, I would guess the answer 3 to that is yes. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 TSG Reporting - Worldwide (877) 702-9580	Page 166 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 TSG Reporting - Worldwide (877) 702-9580 Page 167 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 TSG Reporting - Worldwide (877) 702-9580

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<p>1 HIGHLY CONFIDENTIAL - J. VARLEY 2 CERTIFICATE 3 STATE OF NEW YORK ) 4 : ss 5 COUNTY OF NEW YORK) 6 I, Kathy S. Klepfer, a Registered 7 Merit Reporter and Notary Public within and 8 for the State of New York, do hereby 9 certify: 10 That JOHN VARLEY, the witness whose 11 deposition is herein before set forth, was 12 duly sworn by me and that such deposition is 13 a true record of the testimony given by such 14 witness. 15 I further certify that I am not 16 related to any of the parties to this action 17 by blood or marriage and that I am in no way 18 interested in the outcome of this matter. 19 I further certify that neither the 20 deponent nor a party requested a review of 21 the transcript pursuant to Federal Rule of 22 Civil Procedure 30(e) before the deposition 23 was completed. 24 In witness whereof, I have hereunto 25 set my hand this 11th day of September, 2009. 25 _____ TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - J. VARLEY 2 INDEX 3 TESTIMONY OF J. VARLEY: PAGE 4 Examination by Mr. Tambe ..... 127 5 6 EXHIBITS: PAGE 7 Exhibit 412B, a cover letter from Boies 128 8 Schiller with attached document bearing 9 Bates Nos. BCI-EX-166277 through 166348 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 TSG Reporting - Worldwide (877) 702-9580</p>
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